

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JUNE FULLECIDO-REYNO; FREDDIE  
REYNO, Sui Juris; JFW ADULT  
RESIDENTIAL CARE,

Claimants,

DAVID WYNN-MILLER,  
Plenipotentiary Judge,

Co-Claimant

vs.

SAND CANYON CORPORATION, as  
successor to Option One Mortgage Capital  
Corporation and Premier Trust Deeds  
Services, Inc.; FANNIE MAE  
CORPORATION, TS-Number CA-07-  
79964-JB, #19089622; MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS, INC.; MERS CORP.;  
MICHAEL BURNETT, ESQ &  
MATTHEWS, LLP; MICHAEL  
BURNETT, ESQ; DAVID OWEN; RICK  
HOFFMAN; CLAUDIA ADAMS;  
RONALD D. ROUP, ESQ; BRAD M.  
SIMON, ESQ; CYNTHIA LAICA, ESQ;  
G. GEOFFREY BARRY, ESQ; KIP LEE;  
MATTHEW WINTERS; JEFF  
WAGNER; CINDIE WILLIS; MARK  
KEIPER; JOSEPH MASSARO;  
GERALDINE VALDEZ, ESQ; W.L.  
ROSS; LARRY LITTON; JOHN  
STUMPF; JOSEPH CALTABELLOTTA;

CASE NO.10cv1899 WQH (AJB)  
ORDER

THOMAS G. ROCK; PATRICK  
 MCCLAIN; JAMES E. ROHR; OPTION  
 ONE MORTGAGE; CAPITAL  
 MORTGAGE, C2935541; CT  
 CORPORATION SYSTEMS;  
 RESIDENTIAL FUNDING REAL  
 ESTATE HOLDINGS, LLC; QUALITY  
 LOAN SERVICE CORPORATION,  
 C1613350; KEVIN R. MCCARTHY,  
 ESQ; GRAND BANK, N.A.; CARNEGIE  
 MORTGAGE, LLC; ORANGE COAST  
 LINE, C0703360; MICHAEL M.  
 KALUGER, JR ESQ; STEVE  
 FERNANDO; OPTION ONE  
 MORTGAGE CAPITAL  
 CORPORATION, C2935541;  
 MCCALLA RAYMER LAW GROUP,  
 LLC; JEFFREY M. SCHWARTZ, ESQ,  
 SB 25916; H&R BLOCK; ARGENT  
 MORTGAGE COMPANY, LLC; TOWN  
 AND COUNTRY TITLE SERVICES,  
 INC.; UNIGROUP, INC.; UNITED VAN  
 LINES, (Registered Agent: Jan Roby  
 Alonzo); SULLIVAN MOVING &  
 STORAGE,

Vassalees.

HAYES, Judge:

The matters before the Court are the Motion to Dismiss filed by Wells Fargo Bank, John Stumpf, and Wells Fargo Home Mortgage Servicing (“Wells Fargo”) (ECF No. 24), the Motion to Dismiss filed by Ronald D. Roup, Esq., Brad M. Simon, Esq., and Larry Litton (ECF No. 44), the Motion to Dismiss filed by Kevin R. McCarthy, David Owen, and Quality Loan Service Corporation (ECF No. 45), the Motion to Dismiss filed by Sand Canyon Corporation (as Successor to Option One Mortgage Capital Corporation and Premier Trust Deed Services, Inc.), H&R Block Corporation, and Geraldine A. Valdez (ECF No. 47), the Motion to Dismiss filed by Argent Mortgage Company, LLC, and Town and Country Title Services, Inc. (ECF No. 49), the Motion to Dismiss filed by Orange Coast Title Company, Michael M. Kaluger, Jr., Esq., and Steve Fernando (ECF No. 50), the Motion to Dismiss filed by Fannie Mae Corporation, TS-Number CA-07-79964-JB, #19089622 (ECF Nos. 40, 51), the

1 Motion to Dismiss filed by Grand Banks, N.A., and Carnegie Mortgage, LLC (ECF No. 53),  
 2 the Motion to Dismiss filed by W.L. Ross (ECF No. 57), the Motion to Dismiss filed by  
 3 Unigroup Inc., United Van Lines (registered agent: Jan Roby Alonzo), Mark Keiper, and  
 4 Sullivan Moving & Storage (ECF No. 59), the Motion for Evidentiary Hearing filed by David  
 5 Wynn-Miller (ECF No. 75), the Motion to Dismiss filed by Michael W. Burnett & Mathews,  
 6 LLP, Michael W. Burnett, Joseph Massaro, and Thomas G. Rock (ECF No. 76), the Motion  
 7 to Dismiss filed by Jeffrey M. Schwartz, Esq., SBN 25916 (ECF No. 77), the Motion for the  
 8 Application for the Order Shortening Time filed by David Wynn-Miller, June Fullecido-  
 9 Reyno, and Freddie Reyno (ECF No. 89), the Motion for Evidentiary Hearing filed by David  
 10 Wynn-Miller (ECF No. 92), the Motion to Dismiss filed by Residential Funding Company,  
 11 LLC, and Residential Funding Real Estate Holdings Company, LLC (ECF No. 94), and the  
 12 Motion to Dismiss filed by James E. Rohr, National-City-Bank-PNC-Financial-Services-  
 13 Group, Inc. (ECF No. 100).

## 14 BACKGROUND

15 On September 13, 2010, Plaintiffs June Fullecido-Reyno, Freddie Reyno, and David  
 16 Wynn-Miller<sup>1</sup> initiated this action by filing the Complaint. (ECF No. 1). The Complaint is  
 17 captioned as follows:

18 For Writ of an Amicus Curiae; for the Correct Sentence Structure  
 19 Communication Syntax Language Oath; for the Claimant's-Knowledge of an  
 20 unauthorized-use of tradename; for the Claimants'-Knowledge is with the  
 21 Damage-Claim of the Counterfeit-Forgery-Mail-Fraud; Title~18: C.-S.-S.-C.-  
 22 S.-L.~1342. with the Knowledge; Title42~U.-S.-C.-S.~1986, Title~18:C.-S.-  
 23 C.-S.~1001 as a Tort-Damage with the Penalty Title 15~:C.-S.-C.-  
 24 ~Chapter~2~b~Section~78~ff; and: California-Civil-Code~1549 by the  
 25 Vassalees' Fraudulent-Modification Documents

(ECF No. 1 at 1-2 (emphasis omitted)). The Complaint begins as follows: **"In The Contract-**

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25 <sup>1</sup> The Complaint is asserted by "June-Fullecido: Reyno, Freddie: Reyno, Sui Juris; JFW  
 26 Adult Residential Care Claimants :Plenipotentiary: Judge: David-Wynn: Miller Co-Claimant."  
 27 (ECF No. 1 at 1). The Court construes the Complaint as having been brought by Plaintiffs  
 28 June Fullecido-Reyno, Freddie Reyno, and David Wynn-Miller. The Court will not construe  
 JFW Adult Resident Care as a plaintiff because, "[o]nly natural persons representing their  
 individual interests in propria persona may appear in court without representation by an  
 attorney...." CivLR 83.3(k). To date, there has been no appearance in this case by any  
 attorney for JFW Adult Resident Care. The Complaints also lists several "vassalees" which the  
 Court construe as defendants.

1 **States-Postal-Service-Di-Strict-Court** of this Contract-Territory ith this Writ of an **Amicus-**  
 2 **Curiae.**” *Id.* at 2. (emphasis in original). The Complaint alleges, “For the **Correct-Sentence-**  
 3 **Structure-Communication-Syntax-Language-Oath** of the **Fiduciary-Officer** is with the  
 4 claim of the Judge, Attorneys, Sheriffs, City and: County Officers with this **Contract-Vessel-**  
 5 **Territory.**” *Id.* at 4 (emphasis in original)). Plaintiffs have attached exhibits to the Complaint  
 6 including several deeds of trust, a balloon rider, an adjustable rate rider, several legal  
 7 descriptions of property, an assignment of deed of trust, a notice of default and election to sell  
 8 under deed of trust, a grant deed, a corporation assignment of deed of trust, a substitution of  
 9 trustee, an affidavit of mailing for substitution of trustee by code, a notice of trustee’s sale, a  
 10 notice of intent to preserve interest, an order expunging notice of intent to preserve interest,  
 11 a trustee’s deed upon sale, an order on motion for relief from the automatic stay, a quitclaim  
 12 deed, an assignment of deed of trust, a certification pursuant to government code section  
 13 27361.7, a corporation grant deed, a certificate of acceptance, a grant deed, a notice of  
 14 pendency of action (lis pendens), a withdrawal of notice of pendency of action (lis pendens),  
 15 and a grant deed. Each of these exhibits contain a chart titled, “:Syntax-word-key-meaning:”  
 16 which states: “1=Adverb, 2=Verb, 3=Adjective, 4=Pronoun, 8=Past-time, 9=Future-time,  
 17 0=Conjunction, NC=No-Contract.” Each exhibit is marked with the numbers from the  
 18 “:Syntax-word-key-meaning.”

## 19 DISCUSSION

20 The Defendants generally seek dismissal on the grounds that the Complaint fails to state  
 21 claim upon which relief can be granted and due to lack of subject matter jurisdiction.  
 22 Defendants alternatively seek a more definite statement.

23 Federal Rule of Civil Procedure 12(b)(6) permits dismissal for “failure to state a claim  
 24 upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). Federal Rule of Civil Procedure  
 25 8(a) provides: “A pleading that states a claim for relief must contain ... a short and plain  
 26 statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2).  
 27 Dismissal under Rule 12(b)(6) is appropriate where the complaint lacks a cognizable legal  
 28 theory or sufficient facts to support a cognizable legal theory. *See Balistreri v. Pacifica Police*

1 *Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

2 To sufficiently state a claim to relief and survive a Rule 12(b)(6) motion, a complaint  
 3 “does not need detailed factual allegations” but the “[f]actual allegations must be enough to  
 4 raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,  
 5 555 (2007). “[A] plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’  
 6 requires more than labels and conclusions, and a formulaic recitation of the elements of a cause  
 7 of action will not do.” *Id.* (quoting Fed. R. Civ. P. 8(a)(2)). When considering a motion to  
 8 dismiss, a court must accept as true all “well-pleaded factual allegations.” *Ashcroft v. Iqbal*,  
 9 --- U.S. ---, 129 S. Ct. 1937, 1950 (2009). However, a court is not “required to accept as true  
 10 allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable  
 11 inferences.” *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001); *see, e.g.,*  
 12 *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 683 (9th Cir. 2009) (“Plaintiffs’ general  
 13 statement that Wal-Mart exercised control over their day-to-day employment is a conclusion,  
 14 not a factual allegation stated with any specificity. We need not accept Plaintiffs’ unwarranted  
 15 conclusion in reviewing a motion to dismiss.”). “In sum, for a complaint to survive a motion  
 16 to dismiss, the non-conclusory factual content, and reasonable inferences from that content,  
 17 must be plausibly suggestive of a claim entitling the plaintiff to relief.” *Moss v. U.S. Secret*  
 18 *Serv.*, 572 F.3d 962, 969 (9th Cir. 2009) (quotations omitted).

19 The Complaint is incomprehensible and fails to assert “a short and plain statement of  
 20 the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Dismissal is  
 21 appropriate in this case because complaint lacks a cognizable legal theory or sufficient facts  
 22 to support a cognizable legal theory. *See Balistreri*, 901 F.2d at 699. Accordingly, the  
 23 Motions to Dismiss filed by Wells Fargo Bank, John Stumpf, Wells Fargo Home Mortgage  
 24 Servicing, Ronald D. Roup, Esq., Brad M. Simon, Esq., Larry Litton, Kevin R. McCarthy,  
 25 David Owen, Quality Loan Service Corporation, Sand Canyon Corporation (as Successor to  
 26 Option One Mortgage Capital Corporation and Premier Trust Deed Services, Inc.), H&R Block  
 27 Corporation, Geraldine A. Valdez, Argent Mortgage Company, LLC and Town and Country  
 28 Title Services, Inc., Orange Coast Title Company, Michael M. Kaluger, Jr., Esq., and Steve

1 Fernando, Fannie Mae Corporation, TS-Number CA-07-79964-JB, #19089622, Grand Banks,  
 2 N.A., Carnegie Mortgage, LLC, W.L. Ross, Unigroup Inc., United Van Lines (registered  
 3 agent: Jan Roby Alonzo), Mark Keiper, Sullivan Moving & Storage, Michael W. Burnett &  
 4 Mathews, LLP, Michael W. Burnett, Joseph Massaro, Thomas G. Rock, Jeffrey M. Schwartz,  
 5 Esq., SBN 25916, Residential Funding Company, LLC, Residential Funding Real Estate  
 6 Holdings Company, LLC, James E. Rohr, and National-City-Bank-PNC-Financial-Services-  
 7 Group, Inc. are **GRANTED**. This Court concludes that the Complaint is dismissed as to all  
 8 Defendants based on the finding that the Complaint fails to allege a cognizable legal theory  
 9 or sufficient facts to support a cognizable legal theory.

10 Plaintiffs have also filed a “Motion for Evidentiary Hearing and Hearing for Oral  
 11 Argument on the Order Shortening Time for the :Order: Now-Time-Fault-Judgment:” (ECF  
 12 No. 75), a Motion “For the Application For the Order Shortening Time For the Notice of -the  
 13 Hearing-” (ECF No. 89), and a “Motion for Evidentiary Hearing and Hearing For Oral  
 14 Argument” (ECF No. 92). (emphasis omitted). To the extent these Motions seek oral  
 15 argument, the Court finds that the Motions are suitable for decision on the papers pursuant to  
 16 CivLR 7.1(d)(1). To the extent these Motions seek entry of default judgment, Fed. R. Civ. P.  
 17 55(b)(2) provides that the Court may grant a default judgment after default has been entered  
 18 by the Clerk of the Court. The Clerk of Court has not entered default in this case. Accordingly,  
 19 Plaintiffs’ Motions are **DENIED**.

## 20 CONCLUSION


21 **IT IS HEREBY ORDERED** that:

- 22 (1) The Motions to Dismiss filed by Wells Fargo Bank, John Stumpf, and Wells  
 23 Fargo Home Mortgage Servicing (ECF No. 24), Ronald D. Roup, Esq., Brad M.  
 24 Simon, Esq., and Larry Litton (ECF No. 44), Kevin R. McCarthy, David Owen,  
 25 and Quality Loan Service Corporation (ECF No. 45), Sand Canyon Corporation  
 26 (as Successor to Option One Mortgage Capital Corporation and Premier Trust  
 27 Deed Services, Inc.), H&R Block Corporation, and Geraldine A. Valdez (ECF  
 28 No. 47), Argent Mortgage Company, LLC and Town and Country Title

Services, Inc. (ECF No. 49), Orange Coast Title Company, Michael M. Kaluger, Jr., Esq., and Steve Fernando (ECF No. 50), Fannie Mae Corporation, TS-Number CA-07-79964-JB, #19089622 (ECF Nos. 40, 51), Grand Banks, N.A., and Carnegie Mortgage, LLC (ECF No. 53), W.L. Ross (ECF No. 57), Unigroup Inc., United Van Lines (registered agent: Jan Roby Alonzo), Mark Keiper and Sullivan Moving & Storage (ECF No. 59), Michael W. Burnett & Mathews, LLP, Michael W. Burnett, Joseph Massaro, and Thomas G. Rock (ECF No. 76), Jeffrey M. Schwartz, Esq., SBN 25916 (ECF No. 77), Residential Funding Company, LLC and Residential Funding Real Estate Holdings Company, LLC (ECF No. 94), and James E. Rohr, National-City-Bank-PNC-Financial-Services-Group, Inc. (ECF No. 100) are **GRANTED**. Plaintiffs' Complaint is dismissed. Plaintiffs may file a motion for leave to file an amended complaint within thirty days from the date of this Order. Plaintiffs must obtain a hearing date pursuant to the Local Rules of Civil Procedure before filing any motion. In the event no motion is filed, the Court will close the case.

- (2) Plaintiffs' Motion for Evidentiary Hearing (ECF No. 75), Motion for the Application for the Order Shortening Time (ECF No. 89), and Motion for Evidentiary Hearing (ECF No. 92) are **DENIED**.

DATED: February 3, 2011

  
**WILLIAM Q. HAYES**  
 United States District Judge